

**Meeting Minutes for E. coli Rulemaking Workgroup
October 23, 2003, 1:30 p.m. to 3:30 p.m.
Tippecanoe County Extension Office**

Attendees included:

Mary Ellen Gray, Dennis Clark, Chad Frahm, Dan Olson, Tom Ungar, Richard Van Frank, George Zukous, Paul Werderitch, Lynn Newvine, Roseann Hirschinger, Bill Harkins, Catherine Hess, Barb Lollar and Larry Wu. Holly Wirick, U.S. EPA was not able to participate via conference call due to a conflict. Jim Meyer participated via conference call.

Approval of Workgroup Meeting Minutes of August 26, 2003, and September 25, 2003:

Mary Ellen asked the group whether there were any revisions or corrections to be made to the draft minutes of August 26, 2003 and September 25, 2003. Dick Van Frank commented that he felt that in September it was decided this was the group to address wet weather issues. Jim Meyer agreed, adding that waiting to discuss wet weather when secondary limits were being discussed could harm his client. Mary Ellen Gray suggested that it would make sense to complete recommendations on issues currently before the workgroup before addressing wet weather. After further discussion that included participation by George Zukous, Dan Olson, Denny Clark, Roseann Hirschinger and Lynn Newvine, Mary Ellen summarized the next steps as: 1) IDEM will frame the wet weather issues as best it can and add them to the list of workgroup issues; and, 2) when the wet weather issues are addressed, the discussion will be opened to a wider group than is currently in the workgroup.

Update on First Notice:

Mary Ellen updated the group regarding the first notice. A draft of the summarized comments was distributed to the workgroup. Dan Olson asked if the workgroup could make corrections. Dick Van Frank asked to see the responses before they are sent out to the public. Mary Ellen noted that summarizing comments was an art and that mischaracterizations should be brought to our attention. Corrections can be emailed to Mary Ellen, but she added that it was the responsibility of the agency to generate the responses.

Full Body Contact Designation Discussion:

Denny Clark walked the members through his document, “Recreational Use Criteria” that had been distributed to the workgroup. Two classes were proposed for primary contact recreation utilizing risk levels: Class 1A (where primary contact recreation is known or expected to occur frequently, are otherwise designated for special protection, or form a boundary with another state) and Class 1B2 (all waters not listed as primary contact

recreation Class 1A or not given a Class 2 designation as a result of the completion of a Use Attainability Analysis). The proposal is to have Class 1B waters be designated as the default category of waters of the state with certain waterbodies such as Lake Michigan, all inland lakes and reservoirs, all outstanding state resource waters, all exceptional use waters, any water which has a designated bathing beach or water recreation area, and certain specific waterbodies such as Lake Michigan and the St. Joseph River in Elkhart and St. Joseph counties, utilize the the Class 1A risk level. Dick Van Frank objected to the approach of designating waters as 1B with certain exceptions for 1A. He felt the agency did not have the resources to adequately produce a list of Class 1A waters. Denny responded that waters not on the 1A list will still be receiving a high level of protection under 1B. To treat all waters as if they were beaches did not make sense. Dick said the new category will be viewed as down grading water quality that benefits nobody. Denny responded that the waters are still primary contact recreation use; and that the workgroup had talked about creating two categories. Mary Ellen added that this was a first shot; that the list of 1A waters was not intended to be a comprehensive list; and that Dick's comments were good. Dick raised the issue that the 1A sampling should be collected over a stated period of time. Jim raised the issue that a fixed distance of stream reach is not appropriate in every instance. Dan suggested using ten miles as a default unless there was something else. George asked if another state was using ten miles. Denny conceded that the ten miles was somewhat arbitrary. Mary Ellen concluded that for 1A, a default seems appropriate and that the agency would continue to work on that section.

Denny continued with an introduction to Class 1B and Class 2 (waters where the completion of a Use Attainability Analysis has shown that primary contact recreation is not an existing use and the water quality necessary to support the primary contact use cannot reasonably be attained). Dan asked where the 2000 cfu/100 mL for Class 2 came from. Denny replied that the old single sample limit for fecal coliform was 2000, and it was thought this standard should be as stringent. Mary Ellen added that IDEM had earlier suggested that value. Dan stated that as a framework this approach was fine, although it may need to be fine-tuned. He added that if a scientific method has been developed and used, that it should be used over an arbitrary number.

George asked why the ten percent exclusion had been disposed of. Mary Ellen said the agency would look into what other states were doing. Dick suggested using "four or five calendar weeks" instead of "approximately 30 days". Dan added for major dischargers, more than one sample would be taken per week.

Procedures to have 8 in 1000 Risk Criteria applied to a Water Body:

Mary Ellen introduced the document that had been distributed to the workgroup. She said the IC 13-14-8-5 petition would go to IDEM. Item #3 had been added because of the burden imposed by the rulemaking process. Denny noted that the three items should be linked by "or", and that the process would apply for moving from either 8/1000 to 10/1000 or 10/1000 to 8/1000. Dick felt the procedures would be an undue burden for the public.

Full Body Contact Designation Discussion: (continued):

Chad Frahm said he would support the way Denny laid out 1A and 1B. George asked how the add and subtract would work. Mary Ellen proposed IDEM would put together language for the workgroup to comment on. George asked if that would be done in advance of second notice. Mary Ellen replied that it would.

Application of *E. coli* Criteria (“Issue 3”):

Denny opened the discussion with the question whether we wanted to apply the criteria the same way in all parts of the state. Lynn, in responding yes, posed whether there was any difference in health risk in different parts of the state. Catherine Hess noted that in the GLI, the criteria is applied end-of-pipe while down state we have to apply mixing zones. Dick stated we need to apply it the same way. Dan suggested applying end-of-pipe across the state. The workgroup agreed with that approach.

Options for Daily Max (“Issue 5”):

Denny opened the discussion stating that he thought as the criteria was developed, this issue would be worked out. Dick was concerned with “allowance”, about throwing out outliers.

Denny raised the ancillary issue that most states that have a recreation season apply secondary contact the rest of the year. He said that was something the EPA would probably question us about. Dan said there was no scientific basis to apply primary contact standards outside the recreation season. Dick said the period of a recreation season is arbitrary and that we need to look after children. Barb Lollar asked Dan if he was opposed to using secondary contract the rest of the year. Dan replied he was opposed to any *E. coli* standard outside the primary recreation season. Denny asked if by not disinfecting in the winter, would there be a build up? Jim asked as *E. coli* is only an indicator, if there was evidence of a build up. Dan said there is no basis for using *E. coli* for anything other an gastrointestinal illnesses. It cannot be used for other types of water-borne pathogens. Catherine suggested the agency could recommend year round disinfection as part of an NPDES permit requirement. Barb said it could be technology based. Lynn said it was a tradeoff that we cannot afford to take (e.g., dechlorination puts chlorine into the air). Dan said he could go along with it for swimming but cannot for year round disinfection. Paul noted it will also affect benthic organisms. Mary Ellen noted that as this was an issue with Ron Turco, to see if he can make the next meeting. She asked the workgroup if it would be a benefit if Ron presents more information. Jim said he would be interested in survivability of organisms over the winter months. Dan noted he could not see doing something about year round disinfection without doing something about non-point sources.

Summary:

Mary Ellen noted there were only three more issues to be discussed: should BAT be established? The consensus was that it should not. Second, are other *E. coli* testing methods appropriate? Catherine noted new methodologies would only apply to ambient waters and not discharges. Mary Ellen asked Roseann to provide a summary for the group. Third, waste stabilization/lagoons.

Mary Ellen noted the agency would start to frame out wet weather issues. We'll need to include other people. She suggested the workgroup could be a steering group for the topics to be presented to a larger audience.

Next Meeting:

The next scheduled meeting will be Thursday, November 20, 2003 in Indianapolis. The meeting will be held from 1:00 p.m. to 3:00 p.m. (or 3:30 p.m. if needed). The agency will send out a meeting notice with the location.